

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Nikita Dixon,

Civ. No. 23-1931 (PAM/DTS)

Petitioner,

v.

MEMORANDUM AND ORDER

Tracy Beltz, Department of Corrections,
and Commissioner Paul Schnell,

Respondents.

This matter is before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge David T. Schultz dated October 12, 2023. (Docket No. 8.) The R&R recommends that Petitioner Nikita Dixon’s Petition for habeas-corpus relief be dismissed without prejudice for failure to prosecute. No party objected to the R&R, and the time to do so has passed. D. Minn. L.R. 72.2(b)(1).

This Court must review de novo any portion of an R&R to which specific objections are made, but in the absence of objections, the Court reviews the R&R only for clear error. 28 U.S.C. § 636(b)(1); D. Minn. L.R. 72.2(b); see also Grinder v. Gammon, 73 F.3d 793, 795 (8th Cir. 1996) (noting that district court need only review un-objected-to R&R for clear error). Petitioner has not communicated with the Court since mid-July, did not respond to an Order to Show Cause why the Petition should not be dismissed for failure to exhaust and as untimely, and did not respond to the R&R’s recommendation that the matter be dismissed. The Court thus finds no error, clear or otherwise, in the R&R’s reasoning or dismissal recommendation.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The R&R (Docket No. 8) is **ADOPTED**;
2. Petitioner's Application to Proceed in District Court without Prepaying Fees or Costs (Docket No. 5) is **DENIED as moot**;
3. The Petition (Docket No. 1) is **DISMISSED without prejudice** under Fed. R. Civ. P. 41(b) for failure to prosecute; and
4. No Certificate of Appealability will issue.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: November 1, 2023

s/Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge